

LOUISIANA STATE BOARD OF MEDICAL EXAMINERS

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Obtaining Copies of Medical Records

Board's Expression of Opinion

Because the failure of a physician to surrender a patient's records is not among the provisions under LSA-R.S. 37:1285, the Louisiana State Board of Medical Examiners (LSBME or Board) is not legislatively authorized to conduct a formal hearing based upon such an allegation as it is an area over which the Board, in essence, has no authority. Although the Board does not have legislative authority to invoke formal proceedings or proceed against the physician's license as a result of the failure to release patient records, the Board has expressed its opinion that the physician does have an ethical and moral obligation to supply a patient with a duplicate of his or her records predicated upon sufficient authorization.

Summary of Law

Any patient may obtain a copy of his record upon furnishing a signed authorization and payment of a reasonable copy charge, specified by the Act. If the record is not provided within 15 days the physician may be assessed court costs and attorney's fees in connection with a formal subpoena of the records. The monetary fine will not be imposed, however, unless the patient notifies the physician by certified mail of the failure to supply the records and the penalties which may be imposed and the physician does not release the records within five days form receipt of such notice. Acts 1989, No. 205 Regular Session of the Legislature, effective June 26, 1989.

LSA-R.S. 40:1299.96 provides, in pertinent part,

A. (1) Each health care provider shall furnish each patient, upon request of the patient, a copy of any information related in any way to the patient which the health care provider has transmitted to any company, or any public or private agency, or any person.

(2)(a) Medical records of a patient maintained in a health care provider's office are the property and business records of the health care provider.

(b) Except as provided in [R.S. 44:17](#), a patient or his legal representative, or in the case of a deceased patient, the executor of his will, the administrator of his estate, the surviving spouse, the parents, or the children of the deceased patient, seeking any medical, hospital, or other record relating to the patient's medical treatment, history, or condition, either personally or through an attorney, shall have a right to obtain a copy of such record upon furnishing a signed authorization and upon payment of a reasonable copying charge, not to exceed one dollar per page for the first twenty-five pages, fifty cents per page for twenty-six to five hundred pages, and twenty-five cents per page thereafter, a handling charge not to exceed ten dollars for hospitals and five dollars for other health care providers, and actual postage. The individuals named herein shall also have the right to obtain copies of patient X-rays upon payment of reasonable reproduction costs. In the event a hospital record is not complete, the copy of the records furnished hereunder may indicate, through a stamp, coversheet, or otherwise, that the record is incomplete.

(c) If a copy of the record is not provided within a reasonable period of time, not to exceed fifteen days following the receipt of the request and written authorization, and production of the record is obtained through a court order or subpoena duces tecum, the health care provider shall be liable for reasonable attorney fees and expenses incurred in obtaining the court order or subpoena duces tecum. Such sanctions shall not be imposed unless the person requesting the copy of the record has by certified mail notified the health care provider of his failure to comply with the original request, by referring to the sanctions available, and the health care provider fails to furnish the requested copies within five days from receipt of such notice. Except for their own gross negligence, such health care providers shall not otherwise be held liable in damages by reason of their compliance with such request or their inability to fulfill the request.

(d) A health care provider may deny access to a record if the health care provider reasonably concludes that knowledge of the information contained in the record would be injurious to the health or welfare of the patient or could reasonably be expected to endanger the life or safety of any other person.

(e) Nothing in this Section shall be construed to limit or prohibit access to the information contained in the records of a patient maintained by a health care provider in any legally permissible manner other than those delineated pursuant to [R.S. 22:213.2](#) and in this Section, subject to the provisions of [R.S. 13:3734](#).

(3)(a) Medical and dental records shall be retained by a physician or dentist in the original, microfilmed, or similarly reproduced form for a minimum period of six years from the date a patient is last treated by a physician or dentist.

(b) Graphic matter, images, X-ray films, and like matter that were necessary to produce a diagnostic or therapeutic report shall be retained, preserved and properly stored by a physician or dentist in the original, microfilmed or similarly reproduced form for a minimum period of three years from the date a patient is last treated by the physician or dentist. Such graphic matter, images, X-ray film, and like matter shall be retained for a longer period when requested in writing by the patient.

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